

## Fishery Conservation and Management

## § 648.59

§ 648.55(a). The percentage of the total allowable catch for each Sea Scallop Access Area that is allocated to limited access scallop vessels and limited access general category scallop vessels shall be specified in § 648.59 through the framework adjustment process specified in § 648.55.

[73 FR 20129, Apr. 14, 2008]

### § 648.58 Rotational Closed Areas.

(a) *Hudson Canyon Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Hudson Canyon Closed Area. No vessel may possess scallops in the Hudson Canyon Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Hudson Canyon Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
H1 .....	39°30' N.	73°10' W.
H2 .....	39°30' N.	72°30' W.
H3 .....	38°30' N.	73°30' W.
H4 .....	38°50' N.	73°30' W.
H5 .....	38°50' N.	73°42' W.
H1 .....	39°30' N.	73°10' W.

(b) *Delmarva Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Delmarva Closed Area. No vessel may possess scallops in the Delmarva Closed Area, unless such vessel is only transiting the area as provided in paragraph (b) of this section. The Delmarva Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1 .....	38°10' N.	74°50' W.
DMV2 .....	38°10' N.	74°00' W.
DMV3 .....	37°15' N.	74°00' W.
DMV4 .....	37°15' N.	74°50' W.
DMV1 .....	38°10' N.	74°50' W.

(c) *Transiting.* No vessel possessing scallops may enter or be in the area(s) specified in paragraphs (a) and (b) of this section unless the vessel is transiting the area and the vessel's fishing gear is unavailable for im-

mediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas.

(d) *Vessels fishing for species other than scallops.* A vessel may fish for species other than scallops within the closed areas specified in paragraphs (a) and (b) of this section as allowed in this part, provided the vessel does not fish for, catch, or retain scallops or intend to fish for, catch, or retain scallops. Declaration through VMS that the vessel is fishing in the general category scallop fishery is deemed to be an intent to fish for, catch, or retain scallops.

[71 FR 33228, June 8, 2006, as amended by 73 FR 30807, May 29, 2008]

### § 648.59 Sea Scallop Access Areas.

(a) *Delmarva Sea Scallop Access Area.* (1) From March 1, 2009, through February 28, 2010, a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Delmarva Sea Scallop Access Area, described in paragraph (a)(2) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) The Delmarva Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1 .....	38°10' N.	74°50' W.
DMV2 .....	38°10' N.	74°00' W.
DMV3 .....	37°15' N.	74°00' W.
DMV4 .....	37°15' N.	74°50' W.
DMV1 .....	38°10' N.	74°50' W.

(3) *Number of trips.*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Delmarva Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Delmarva Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(i), or unless the vessel is taking a compensation trip for a prior Delmarva Access Area trip that was terminated early, as specified in

§ 648.60(c). The number of trips allocated to limited access vessels in the Delmarva Access Area shall be based on the TAC for the access area, which shall be determined through the annual framework process and specified in this paragraph (a)(5)(i). The 2009 Delmarva Access Area scallop quota for limited access scallop vessels is 5,529,000 lb (2,508 mt), unless reduced per § 648.60(a)(3)(i)(E)(3).

(ii) *LAGC scallop vessels.* (A) The percentage of the Delmarva Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (a)(3)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (a)(3)(ii)(B) of this section. LAGC vessels will be allocated 291,000 lb (132 mt), which is 5 percent of the 2009 Delmarva Access Area TAC.

(B) Based on the TAC specified in paragraph (a)(3)(ii)(A) of this section, LAGC scallop vessels shall be allocated 728 trips to the Delmarva Access Area, unless reduced per § 648.60(a)(3)(i)(E)(3). The Regional Administrator shall notify all LAGC scallop vessels of the date when 728 trips have been, or are projected to be, taken. Except as provided in paragraph (d)(5)(ii)(C) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Delmarva Access Area, or enter the Delmarva Access Area on a declared LAGC scallop trip once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with § 648.60(g)(4), of the date that the allocated number of trips for the applicable fishing year have been taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(b) *Closed Area I Access Area.* This area shall be managed on a 3-year cycle, with a 1-year closure, followed by a 2-year Area Access Program, as follows:

(1) Through February 28, 2007, and every third fishing year thereafter (*i.e.*, March 1, 2009, through February 28, 2010, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an ap-

proved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(2) Beginning March 1, 2007, through February 28, 2009, and for every 2-year period, based on the fishing year, after the year-long closure described in paragraph (b)(1) of this section (*i.e.*, March 1, 2010 through February 29, 2012, etc.), and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, a vessel issued a scallop permit may fish for, possess, and land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area I Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
CAIA1 .....	41°26' N.	68°30' W.
CAIA2 .....	41°09' N.	68°30' W.
CAIA3 .....	41°4.54' N.	69°0.9' W.
CAIA1 .....	41°26' N.	68°30' W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Sea Scallop Access Area, described in paragraph (b)(3) of this section, except during the period June 15 through January 31 of each year the Closed Area I Sea Scallop Access Area is open to scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(5) *Number of trips—(i) Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is

taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area I Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (b)(5)(i).

(ii) *LAGC scallop vessels.* (A) The percentage of the Closed Area I Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (b)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (b)(5)(ii)(B) of this section. The Closed Area I Access Area shall be closed in the 2008 and 2009 fishing years.

(B) The Closed Area I Access Area shall be closed in fishing years 2008 and 2009. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the 2008 fishing year. Except as provided in paragraph (b)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area I Access Area, or enter the Closed Area I Access Area on a declared LAGC scallop trip once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with § 648.60(g)(4), the date on which the allocated number of trips for the applicable fishing year have been taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and a LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (b)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(c) *Closed Area II Access Area.* This area shall be managed on a 3-year

cycle, based on fishing years, with a 1-year closure, followed by a 2-year Area Access Program as follows:

(1) From March 1, 2007, through February 29, 2008, and every third fishing year thereafter, (i.e., March 1, 2010, through February 28, 2011, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an approved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(2) Through February 28, 2007, and for every 2-year period after the year-long closure described in paragraph (c)(1) of this section (i.e., March 1, 2008, through February 28, 2010, etc.) and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area II Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
CAIIA1 .....	41°00' N.	67°20' W.
CAIIA2 .....	41°00' N.	66°35.8' W.
CAIIA3 .....	41°18.6' N.	66°24.8' W.
CAIIA4 .....	41°30' N.	66°34.8' W.
CAIIA5 .....	41°30' N.	67°20' W.
CAIIA1 .....	41°00' N.	67°20' W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, except during the period June 15 through January 31 of each year the Closed Area II Access Area is open to scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(5) *Number of trips*—(i) *Limited access vessels*. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area II Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area II Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area II Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area II Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (c)(5)(i). The 2009 Closed Area II Access Area scallop quota for limited access scallop vessels is 5,626,666 lb (2,553 mt).

(ii) *LAGC scallop vessels*. (A) The percentage of the total Closed Area II Access Area TAC specified to be allocated to LAGC scallop vessels shall be specified in this paragraph (c)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (c)(5)(ii)(B) of this section. The Closed Area II Access Area shall be closed in fishing year 2008, and LAGC vessels will be allocated zero percent of the 2009 Closed Area II Access Area TAC.

(B) The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken. Except as provided in paragraph (c)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area II Access Area, or enter the Closed Area II Access Area on a declared LAGC scallop trip once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with § 648.60(g)(4), of the date that the allocated number of trips for the applicable fishing year have been taken, in total, by all LAGC

scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (c)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(d) *Nantucket Lightship Access Area*. (1) From March 1, 2008, through February 28, 2009, and every third fishing year thereafter (*i.e.*, March 1, 2011, through February 29, 2012, 2014, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an approved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(2) Through February 29, 2008, and for every 2-year period, based on fishing years, after each the year-long closure described in paragraph (d)(1) of this section (*i.e.*, March 1, 2009, through February 28, 2011, etc.) and subject to the seasonal restrictions specified in paragraph (d)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Nantucket Lightship Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLSA1 .....	40°50' N.	69°00' W.
NLSA2 .....	40°30' N.	69°00' W.
NLSA3 .....	40°30' N.	69°14.5' W.
NLSA4 .....	40°50' N.	69°29.5' W.

## Fishery Conservation and Management

§ 648.59

Point	Latitude	Longitude
NLAA1 .....	40°50' N.	69°00' W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, except during the period June 15 through January 31 of each year the Nantucket Lightship Access Area is open to scallop fishing, unless transiting pursuant to paragraph (f) of this section.

(5) *Number of trips—(i) Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Nantucket Lightship Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Nantucket Lightship Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in §648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Nantucket Lightship Access Area trip that was terminated early, as specified in §648.60(c). The number of trips allocated to limited access vessels in the Nantucket Lightship Access Area shall be based on the TAC for the access area. The 2008 Nantucket Lightship Access Area scallop quota for limited access scallop vessels is 5,068,250 lb (2,293 mt).

(ii) *LAGC scallop vessels.* (A) The percentage of the Nantucket Lightship Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (d)(5)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (d)(5)(ii)(B) of this section. LAGC vessels shall be allocated 266,750 lb (121 mt) in fishing year 2008, which is 5 percent of the 2008 Nantucket Lightship Access Area TAC. The Nantucket Lightship Access Area shall be closed in fishing year 2009.

(B) Based on the TAC specified in paragraph (d)(5)(ii)(A) of this section, LAGC scallop vessels shall be allocated 667 trips to the Nantucket Lightship Access Area in fishing year 2008. The Regional Administrator shall notify all LAGC scallop vessels of the date when

the 667 trips have been, or are projected to be, taken. Except as provided in paragraph (d)(5)(ii)(C) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Nantucket Lightship Access Area, or enter the Nantucket Lightship Access Area on a declared LAGC scallop trip once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with §648.60(g)(4), of the date that the allocated number of trips for the applicable fishing year have been taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under §648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (d)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(e) *Elephant Trunk Sea Scallop Access Area.* (1) From March 1, 2007, through February 29, 2012, and subject to the seasonal restrictions specified in paragraph (e)(3) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Elephant Trunk Sea Scallop Access Area, described in paragraph (e)(2) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in §648.60.

(2) The Elephant Trunk Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
ETAA1 .....	38°50' N.	74°20' W.
ETAA2 .....	38°10' N.	74°20' W.
ETAA3 .....	38°10' N.	73°30' W.
ETAA4 .....	38°50' N.	73°30' W.
ETAA1 .....	38°50' N.	74°20' W.

(3) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Elephant Trunk Sea

Scallop Access Area, described in paragraph (e)(2) of this section, from September 1 through October 31 of each year the Elephant Trunk Access Area is open to scallop fishing as a Sea Scallop Access Area, unless transiting pursuant to paragraph (f) of this section.

(4) *Number of trips*— (i) *Limited access vessels*. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Elephant Trunk Sea Scallop Access Area between March 1, 2007, and February 29, 2008, as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains an Elephant Trunk Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Elephant Trunk Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *LAGC scallop vessels*. (A) The percentage of the Elephant Trunk Access Area TAC to be allocated to LAGC scallop vessels shall be specified in this paragraph (e)(4)(ii)(A) through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (e)(4)(ii)(B) of this section. LAGC vessels shall be allocated 1,067,000 lb (484 mt) in fishing year 2008, which is 5 percent of the 2008 Elephant Trunk Access Area TAC. LAGC vessels shall be allocated 785,700 lb (356 mt) in fishing year 2009, which is 5 percent of the 2009 Elephant Trunk Access Area TAC. The 2009 general category TAC may be reduced per § 648.60(a)(3)(i)(E)(2).

(B) Based on the TACs specified in paragraph (e)(4)(ii)(A) of this section LAGC vessels shall be allocated a total of 2,668 trips in the Elephant Trunk Access Area in fishing year 2008 and 1,964 trips in fishing year 2009. The fishing year 2009 general category trip allocation may be reduced per § 648.60(a)(3)(i)(E)(2). The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken. An LAGC scallop vessel may not fish for,

possess, or land sea scallops in or from the Elephant Trunk Access Area, or enter the Elephant Trunk Access Area on a declared LAGC scallop trip once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with § 648.60(g)(4), of the date that the allocated number of trips for the applicable fishing year have been taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(f) *Transiting*. A sea scallop vessel that has not declared a trip into the Sea Scallop Area Access Program may enter the Sea Scallop Access Areas described in paragraphs (a), (b), (d), and (e), of this section, and possess scallops not caught in the Sea Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed in accordance with § 648.23(b). A scallop vessel that has declared a trip into the Sea Scallop Area Access Program may transit a Scallop Access Area while steaming to or from another Scallop Access Area, provided the vessel's fishing gear is stowed in accordance with § 648.23(b), or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Access Area, as described in paragraph (c) of this section, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed in accordance with § 648.23(b).

[71 FR 33228, June 8, 2006, as amended at 72 FR 72629, Dec. 21, 2007; 73 FR 30807, May 29, 2008; 73 FR 30808, May 29, 2008; 73 FR 54736, Sept. 23, 2008]

**§ 648.60 Sea scallop area access program requirements.**

(a) A limited access scallop vessel may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, when fishing under a scallop DAS, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. An LAGC scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel